



LOUISVILLE & NASHVILLE RAILROAD COMPANY

908 W. BROADWAY • LOUISVILLE, KENTUCKY 40203 • TELEPHONE (502) 587-5772

LAW DEPARTMENT

March 2, 1978

CHAUNCEY E. BRUMMER
ATTORNEY

Mr. H. G. Homme, Jr.
Secretary
Interstate Commerce Commission
Washington, D. C. 20423

RECORDATION NO. **9263** Filed & Recorded

MAR 3 1978 - 3 01 PM

INTERSTATE COMMERCE COMMISSION

Dear Mr. Secretary:

There is transmitted to you herewith for filing and recordation, pursuant to Section 20c of the Interstate Commerce Act, counterparts of an Agreement dated as of February 15, 1978, between General Motors Corporation (Electro-Motive Division), whose address is LaGrange, Illinois 60525, and Louisville and Nashville Railroad Company, whose address is 908 West Broadway, Louisville, Kentucky 40201.

By this Agreement, General Motors Corporation (Electro-Motive Division) permits Louisville and Nashville Railroad Company to use locomotives pending completion of permanent financing. There has been no prior recordation of any document relating to the locomotives covered by said Agreement.

The equipment covered by this Agreement is 10 1500 H.P. Model MP 15-AC locomotives bearing L&N Road Numbers 4225 through 4234, inclusive.

Attached hereto is a draft in the amount of \$50.00 payable to the Treasurer of the United States to cover the cost of recording said Agreement.

This letter of transmittal is signed by an officer of Louisville and Nashville Railroad Company designated for the purpose hereof who has knowledge of the matters set forth herein.

After recordation, please return the recorded counterparts of said Agreement to:

8-062A121

Mr. Chauncey E. Brummer, Attorney
Louisville and Nashville Railroad Company
908 West Broadway
Louisville, Kentucky 40201

Date **MAR 3 1978**

Fee \$ **50.00**

Washington, D. C.

- 2 -

Respectfully yours,

Louisville and Nashville Railroad Company

By Chauncey E. Brummer
Chauncey E. Brummer
Attorney

Attachments

Interstate Commerce Commission

Washington, D.C. 20423

3/3/78

OFFICE OF THE SECRETARY

**Mr. Chauncey E. Brummer, Atty
L&N RR. Company
908 West Broadway
Louisville, KY. 40201**

Dear Sir:

The enclosed document(s) was recorded pursuant to the
provisions of Section 20(c) of the Interstate Commerce Act,
49 U.S.C. 20(c), on **3/3/78** at **3:05Pm**,
and assigned recordation number(s).

9263

Sincerely yours,

**H.G. Homme, Jr.
Acting Secretary**

Enclosure(s)

**SE-30-T
(6/77)**

RECORDATION NO. 9263 Filed & Recorded

MAR 3 1978 -3 05 PM

INTERSTATE COMMERCE COMMISSION

AGREEMENT

Dated as of February 15, 1978

Between

GENERAL MOTORS CORPORATION
(Electro-Motive Division)

and

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

Covering

10

1500 H.P. Model MP 15-AC Locomotives

THIS AGREEMENT, dated as of February 15, 1978, by and between GENERAL MOTORS CORPORATION (Electro-Motive Division), a Delaware corporation (Manufacturer), and Louisville and Nashville Railroad Company (L&N), a Kentucky corporation :

WITNESSETH

The Manufacturer and L&N heretofore entered into a letter Agreement dated March 1, 1978 (copy of which letter Agreement is made a part hereof by reference), and such addenda thereto and modifications thereof as may have been or may be agreed upon in writing between the Manufacturer and whereunder the Manufacturer agreed (among other things) to construct at its McCook, Illinois plant and to deliver to L&N, at Dalton, Illinois, or at such point or points as directed by L&N, and L&N agreed to accept and pay for 10 1500 H.P. Model MP 15-AC locomotives (Locomotives), to bear L&N road numbers 4225-4234, inclusive.

As contemplated by said letter Agreement, L&N intends to finance the purchase of the Locomotives from the Manufacturer pursuant to a Conditional Sale Agreement to be dated as of March 15, 1978, but deliveries of the Locomotives are scheduled to begin on or about March 1, 1978, and will not have established said financing arrangement by that time nor be in position to take such deliveries thereunder. L&N represents that such financing arrangement will be established, however, on or before April 20, 1978. L&N, in order that it may use the Locomotives pending establishment of such financing arrangement, has arranged with the Manufacturer to give it temporary custody and possession

of the Locomotives upon their completion, solely as a bailee of the Locomotives, and the Manufacturer is willing to do so upon the terms and conditions hereinafter stated.

In consideration of the premises, the Manufacturer hereby delivers to L&N and L&N hereby accepts from the Manufacturer the Locomotives as of the date each of them is delivered to L&N at Dalton, Illinois, or such other point or points as may be directed by L&N, for the period ending on the earlier of April 20, 1978, or the date of establishment of said financing arrangement. On such termination date, this Agreement shall automatically be cancelled and superseded without further action by or notice to any party concerned.

Upon delivery of each Locomotive to the delivery point, L&N representatives will execute a certificate of acceptance acknowledging the receipt of delivery of such Locomotive under this Agreement. Title to the Locomotives shall remain in the Manufacturer and L&N's right and interest therein is and shall be solely that of possession, custody and use as bailee under this Agreement. Transfer of title shall be effected only at the time of delivery of bills of sale. L&N, without expense to the Manufacturer, will promptly cause this Agreement to be filed with the Interstate Commerce Commission for recordation under Section 20c of the Interstate Commerce Act. In addition, L&N shall do such other acts as may be required by law, or reasonably requested by the Manufacturer for the protection of the Manufacturer's title to and interest in the Locomotives.

L&N agrees that it will permit no liens of any kind to attach to the Locomotives; and that it will

(a) indemnify and save harmless the Manufacturer from any and all claims, expenses or liabilities of whatsoever kind; and

(b) pay any and all taxes, fines, charges and penalties that may accrue or be assessed or imposed upon the Locomotives or the Manufacturer,

because of the Manufacturer's ownership or because of the use, operation, management or handling of the Locomotives by L&N during the term of this Agreement. L&N obligations contained in this paragraph shall survive the termination of this Agreement.

L&N will, at its own expense, keep and maintain the Locomotives in good order and running condition and will at its option repair or replace or promptly pay to the Manufacturer the purchase price in cash of those Locomotives which may be damaged or destroyed by any cause during the term of this Agreement.

Prior to the delivery of each Locomotive to under this Agreement it will be numbered with a road number as hereinbefore indicated, and there shall be plainly, distinctly, permanently and conspicuously marked upon each side of each Locomotive, in

contemplation of said financing arrangement, the following legend in letters not less than one inch in height:

"OWNERSHIP SUBJECT TO A SECURITY AGREEMENT
FILED UNDER THE INTERSTATE COMMERCE ACT, SECTION 20c"

L&N hereby agrees to indemnify the Manufacturer against any liability, loss or expense incurred by it as a result of the placing of the aforementioned markings on the Locomotives.

In case, during the continuance of this Agreement, such markings shall at any time be removed, defaced or destroyed on any Locomotives, L&N shall immediately cause the same to be restored or replaced.


All or any of the rights, benefits or advantages of the Manufacturer, including the right to receive the purchase price of the Locomotives as provided in the letter Agreement, may be assigned by the Manufacturer and reassigned by any assignee at any time or from time to time, provided, however, that no such assignment shall subject any such assignee to any of the Manufacturer's warranties, indemnities or any other obligations contained in this Agreement or in the letter Agreement relating to the Locomotives. In the event the Manufacturer assigns its rights to receive the payments herein and/or under the letter Agreement, and L&N receives written notice thereof from the Manufacturer, together with a counterpart of such assignment stating the identity and the post office address of the assignee, all payments thereafter to be made by L&N under this Agreement shall, to the extent so assigned, be made to the assignee against proper receipt therefor in form satisfactory to L&N.

In the event of any assignment by the Manufacturer of its rights to receive any payments under this Agreement or under the letter Agreement, the rights of such assignee to such payments as may be assigned together with any other rights hereunder which can be and are so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Manufacturer in respect to the Locomotives, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to L&N by the Manufacturer. Any and all such obligations, howsoever arising, shall be and remain enforceable by L&N, its successors and assigns (other than assignees as such of rights, benefits or advantages assigned pursuant to this Agreement).

L&N agrees with the Manufacturer that the execution by the Manufacturer of this Agreement or the delivery by the Manufacturer to L&N of the Locomotives, as contemplated by this Agreement, shall not relieve L&N of its obligations to accept, take and pay for the Locomotives in accordance with the terms of the letter Agreement, or impair any of the Manufacturer's rights under the letter Agreement.

Attest:

GENERAL MOTORS CORPORATION
(Electro-Motive Division)


W. K. Thomas
Assistant Secretary

By P. K. Haglund
Vice President

Attest:

LOUISVILLE & NASHVILLE RAILROAD COMPANY

W. D. Hoff
Attesting Officer

W. J. Miller
Assistant Vice President

STATE OF ILLINOIS)
COUNTY OF COOK) SS:

On this 28th day of FEBRUARY, 1978, before me personally appeared ~~James~~, to me personally known, who, being by me duly sworn, says that he is a Vice President of GENERAL MOTORS CORPORATION (Electro-Motive Division), that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)

W. Scott

Notary Public

My commission expires: January 17, 1979

STATE OF *Kentucky*)
COUNTY OF *Jefferson*) SS:

On this 24th day of February, 1978, before me personally appeared *James*, to me personally known, who, being by me duly sworn, says that he is Assistant Vice-President of the *Louisville & Nashville Railroad Company*, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

(NOTARIAL SEAL)

Patricia A. Oglesby

Notary Public

State of *Kentucky*, *Jefferson* County
My Commission Expires:

NOTARY PUBLIC, STATE AT LARGE
My Commission Expires April 12, 1981